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TRANSMITTAL FORM

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First Named Inventor	Dale Ray
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Examiner Name	Salman Ahmed
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

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Signature	V Lynn Webb	Date	June 19, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	Ray	CONFIRMATION NO.:	6121
APPLN. NO.:	10/015,158	EXAMINER:	Salman Ahmed
FILED:	December 11, 2001	ART UNIT:	2616
DOCKET NO.	CE04833N		
TITLE:	Method and Apparatus for Enabling a Communication Resource Reset		

BRIEF ON APPEAL

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please consider the following Brief on Appeal for the above identified patent application assigned to Motorola, Inc.

I. REAL PARTY IN INTEREST

The subject application is assigned to Motorola, Inc., the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

To Appellants' knowledge, there are no related appeals or interferences.

III. STATUS OF CLAIMS

1. Claims 1, 4, 17, 24, 26 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober et al. (U.S. Patent No. 6,493,320, hereinafter Schober) in view of Silverman (U.S. Patent No. 6,731,649, hereinafter Silverman).

2. Claims 2, 8, 9, 16, 18, 25 and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman in further view of Grilli et al. (U.S. Patent Publication No. 2004/0032836, hereinafter Grilli).
3. Claims 11, 12, 13 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman and Grilli, in further view of Kondylis et al. (U.S. Patent No. 6,665,311, hereinafter Kondylis).
4. Claims 5, 6, 20-22 and 28-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman, in further view of Kondylis et al.
5. Claims 7, 14, 23 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 3, 10, 19 and 27 are cancelled.

IV. STATUS OF AMENDMENTS FILED SUBSEQUENT TO FINAL REJECTION

A response was filed after final rejection and entered by the Examiner.

V. SUMMARY OF INVENTION

The present invention is directed to a method for enabling a communication resource reset in a base station.

VI. ISSUES

(1) Whether Schober and Silverman make obvious claims 1, 4, 17, 24, 26 and 32 under 35 U.S.C. §103(a).

(2) Whether Schober Silverman and Grilli make obvious claims 2, 8, 9, 16, 18, 25 and 33 under 35 U.S.C. §103(a).

(3) Whether Schober Silverman, Grilli, and Kondylis make obvious claims 11, 12, 13 and 15 under 35 U.S.C. §103(a).

(4) Whether Schober Silverman, and Kondylis make obvious claims 5, 6, 20-22 and 28-30 under 35 U.S.C. §103(a).

VII. GROUPING OF CLAIMS

Appellants offer no other grouping of claims.

VIII. ARGUMENTS

35 U.S.C. §103

Claims 1, 4, 17, 24, 26 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman. Claims 2, 8, 9, 16, 18, 25 and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman in further view of Grilli. Claims 11, 12, 13 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman and Grilli, in further view of Kondylis. Claims 5, 6, 20-22 and 28-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schober in view of Silverman, in further view of Kondylis et al.

It is incumbent upon the Examiner to prove a *prima facie* case of obviousness (MPEP 2142). To establish a *prima facie* case three basic criteria must be met. First, the prior art reference must teach or suggest all the claim limitations. Second, there must be a reasonable expectation of success. Finally, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference.

There is no motivation to combine the cited references

Appellants respectfully traverse the rejection. Appellant's independent claims 1, 17 and 26 call for, among other things, monitoring a link parameter via the physical layer element, the link parameter being associated with the communication link, and wherein the link parameter is associated with an Ethernet link.

Schober teaches coupling one router to another router using a high speed plesiochronous, parallel link (abstract). Link control units communicate with each other to initialize, tune and

test the link (column 2, lines 26-27). The link control unit adjusts operating parameters of drivers and receivers in order to compensate for material and dimensional characteristics that vary for each particular link (column 5 lines 50-53).

Plesiochronous systems run in a state where different parts of the system are almost, but not quite perfectly, synchronized. The International Telecommunication Union (ITU) Telecommunication Standardization Sector (ITU-T) states that corresponding signals are plesiochronous if their significant instants occur at nominally the same rate, with any variation in rate being constrained within specified limits. In general, *plesiochronous systems behave similarly to synchronous systems*, except that they must have some means to cope with "sync slips", which will happen at intervals due to the plesiochronous nature of the system. The modern tendency in systems engineering is towards using systems that are either fundamentally *asynchronous (such as Ethernet)*, or fundamentally synchronous (such as Synchronous Digital Hierarchy (SDH)), and layering these where necessary, rather than using a mixture between the two in a single technology (see Wikipedia definition of Plesiochronous).

It is clear that a plesiochronous link is similar to a synchronous link, while the recited limitation of an Ethernet link is an asynchronous link. While Schober teaches plesiochronous links, Schober does not teach or suggest an Ethernet link, which is fundamentally different from a plesiochronous link. Further, Silverman teaches an Ethernet link, but does not teach or suggest a synchronous or plesiochronous link.

In the June 6, 2006 Advisory Action, the Examiner states that the motivation to combine is not based on a system being plesiochronous or asynchronous, but rather what are the different ways suggested by the references that could connect two nodes/routers to implement reset mechanism. The Examiner goes to make the conclusory statement that "[a]s such Schober's invention can be implemented using Silverman's teaching and vise versa." However, the teachings of Schrober are specifically for plesiochronous connections, while the teachings of Silverman are specifically for Ethernet connections. The statement in Silverman that "CLEC can easily take advantage of that fact that IP works with any link layer protocol, including Ethernet and SONET" (as cited by the Examiner in the June 6, 2006 Advisory Action) is not enough. Silverman stating that IP can work with any link layer protocol and only citing Ethernet and SONET reinforces Appellant's position, that there is no motivation to combine the cited art. In other words, Silverman does not teach or suggest a plesiochronous link, and stating that IP works

with any protocol is overly broad and does not teach toward using the teachings of Schober in the Ethernet taught by Silverman. This is particularly true since Silverman only cites examples of the asychronous type connections. Any other conclusion is an untenable and overly broad reading of the art. In fact, the combining of the recited art is obviously a hindsight reconstruction based Appellant's own disclosure. "The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification." *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). As can be seen, the prior art does not suggest such a modification, but in fact, teaches away from Appellant's recited limitations.

There is no motivation to one skilled in the art of synchronous plesiochronous links to use completely different asynchronous Ethernet links as alleged by the Examiner. There can be no motivation to combine since Schober teaches the use of plesiochronous links, and Silverman teaches asynchronous Ethernet links. It is respectfully requested that the rejection be withdrawn and the claims proceed to allowance. The dependent claims are deemed allowable for the same reasons as the independent claims 1, 17 and 26.

Independent claim 9 is rejected as being obvious over Schober in view of Silverman and Grilli. Appellants' respectfully traverse this rejection as all of the claimed elements are not found in the cited references. Appellant's independent claim 9 calls for, among other things, a *base station controller and a base station are in communication via a communication link*, and wherein the base station is operable to enable a reset, the base station comprising a reset element operatively coupled to the processor and the physical layer element, the reset element being operable to monitor a *link parameter associated with the communication link* via the physical layer element, and wherein the link parameter is *associated with an Ethernet link*; and the reset element being operable to restore the base station to an initial state in response to a trigger event so that the *base station controller is operable to reestablish communication with the base station.*

Schober teaches coupling one router to another router using a high speed plesiochronous, parallel link (abstract). Link control units communicate with each other to initialize, tune and test the link (column 2, lines 26-27). The link control unit adjusts operating parameters of drivers and receivers in order to compensate for material and dimensional characteristics that vary for each particular link (column 5 lines 50-53).

As established above, plesiochronous systems (such as that taught by Schober) behave similarly to synchronous systems, while Ethernet systems (as claimed by Appellants) are fundamentally asynchronous.

Grilli teaches schemes to time-align transmission from multiple base stations to a terminal (abstract), where a terminal may be a mobile station, wireless device, etc. (paragraph 0029). Grilli goes on to teach obtaining the difference between a timing of a first base station and a timing of a reference base station in the wireless communication system and reporting these to a mobile device (paragraph 0011 to 0016). Grilli only teaches a method of solving the arrival times of signals from multiple base stations to a mobile device. Grilli does not teach or suggest a communication link between *a base station and a base station controller* where the base station includes a reset element being operable to monitor a *link parameter associated with the communication link* via the physical layer element, and wherein the link parameter is *associated with an Ethernet link*; and the reset element being operable to restore the base station to an initial state in response to a trigger event so that the *base station controller is operable to reestablish communication with the base station.*

The teachings of Silverman or Kondylis do not make up for the deficiencies of Schober and Grilli. Therefore, claims dependent on independent claims 1, 9, 17 and 26 are deemed allowable for the same reasons. The dependent claims are deemed allowable for the same reason as the independent claims.

As shown above, Schober teaches exclusively a plesiochronous system. Grilli teaches the use of W-CDMA in the communication of multiple base stations to a mobile device. Neither Ethernet nor W-CDMA are taught by Schober. In fact, one skilled in the art of mobile communication systems such as that taught by Grilli would not use the plesiochronous system taught by Schober to solve the problem in Grilli. Therefore, there is no suggestion to combine the references and certainly no teachings in either reference that would suggest a modification of Grilli to use the system of Schober. Any assertion that such a motivation to combine exists, is hindsight reconstruction based on Appellant's disclosure.

Appellants are not claiming that the references cannot be combined because one cannot be bodily incorporated into another as alleged by the Examiner in the 3/22/2006 Office Action and the June 6, 2006 Advisory Action. Appellants assert that the teachings of Schober cannot properly be combined with Silverman or Grille because Schober teaches a plesiochronous

system, while Silverman and Grille teach an Ethernet based system. Since these are two completely different types of links (as argued above), one skilled in the art of synchronous plesiochronous links (Schober) would not be motivated to use the teachings of asynchronous Ethernet links (Silverman and Grille).

Therefore, it is respectfully requested that the rejection be withdrawn and the claims proceed to allowance.

Summary

Appellants therefore pray for the reversal of the final rejection and the allowance of the subject application.

Respectfully submitted,

DATE: 6-19-06

By: _____

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IX. APPENDIX

1. (Previously Amended) In a communication system, wherein a controller and a communication resource are in communication via a communication link, a method for enabling a communication resource reset, the method comprising:

providing a physical layer element within the communication resource, the physical layer element being operatively coupled to the communication link;

monitoring a link parameter via the physical layer element, the link parameter being associated with the communication link, and wherein the link parameter is associated with an Ethernet link; and

restoring the communication resource to an initial state in response to a trigger event so that the controller is operable to reestablish communication with the communication resource, the trigger event being associated with the link parameter.

2. (Original) The method of claim 1, wherein the step of providing a physical layer element within the communication resource comprises providing a physical layer element within a base station.

3. (cancelled)

4. (Original) The method of claim 1, wherein the step of monitoring a link parameter via the physical layer element comprises monitoring link speed via the physical layer element, and wherein the link speed is associated with the communication link.

5. (Original) The method of claim 1, wherein the step of restoring the communication resource to an initial state in response to a trigger event such that the controller is operable to reestablish communication with the communication resource comprises restoring the communication resource to an initial state in response to a change in link speed associated with the communication link.

6. (Original) The method of claim 1, wherein the step of restoring the communication resource to an initial state in response to a trigger event such that the controller is operable to reestablish communication with the communication resource comprises restoring the communication resource to an initial state in response to a decrease in link speed associated with the communication link for a time period.

7. (Original) The method of claim 1, wherein the step of restoring the communication resource to an initial state in response to a trigger event such that the controller is operable to reestablish communication with the communication resource comprises restoring the communication resource to an initial state in response to a decrease in link speed associated with the communication link from 100 megabits per second (Mb/s) to 10 megabits per second (Mb/s).

8. (Original) The method of claim 1, wherein the communication system operates in accordance to one of a code division multiple access (CDMA) based communication system and a time division multiple access (TDMA) based communication system.

9. (Previously Amended) In a wireless communication system, the communication system providing communication service to a plurality of mobile stations, wherein a base station controller and a base station are in communication via a communication link, and wherein the base station is operable to enable a reset, the base station comprising:

a processor;

a physical layer element operatively coupled to the processor and the communication link;

a reset element operatively coupled to the processor and the physical layer element, the reset element being operable to monitor a link parameter associated with the communication link via the physical layer element, and wherein the link parameter is associated with an Ethernet link; and

the reset element being operable to restore the base station to an initial state in response to a trigger event so that the base station controller is operable to reestablish communication with the base station,

wherein the trigger event is associated with the link parameter.

10. (cancelled)

11. (Original) The base station of claim 9, wherein the link parameter associated with the communication link comprises link speed associated with the communication link.

12. (Original) The base station of claim 9, wherein the trigger event comprises a change in link speed associated with the communication link.

13. (Original) The base station of claim 9, wherein the trigger event comprises a decrease in link speed associated with the communication link for a time period.

14. (Original) The base station of claim 9, wherein the trigger event comprises a decrease in link speed associated with the communication link from 100 megabits per second (Mb/s) to 10 megabits per second (Mb/s).

15. (Original) The base station of claim 9, wherein the reset element comprises an application specific integrated circuit.

16. (Original) The base station of claim 9, wherein the base station operates in accordance to one of a code division multiple access (CDMA) based communication system and a time division multiple access (TDMA) based communication system.

17. (Previously Amended) In a communication system, wherein a controller and a communication resource are in communication via a communication link, and wherein a processor operates in accordance to a logic circuit for enabling a communication resource reset, the logic circuit comprising:

a first logic that directs the logic circuit to communicate with a physical layer element within the communication resource, the physical layer element being operatively coupled to the communication link;

a second logic that directs the logic circuit to monitor a link parameter via a physical layer element, the link parameter associated with the communication link, and wherein the link parameter is associated with an Ethernet link; and

a third logic that directs the logic circuit to restore the communication resource to an initial state in response to a trigger event so that the controller is operable to reestablish communication with the communication resource,

wherein the trigger event is associated with the link parameter.

18. (Original) The logic circuit of claim 17, wherein the first logic comprises a logic that directs the logic circuit to communicate with a physical layer element within a base station.

19. (cancelled)

20. (Original) The logic circuit of claim 17, wherein the second logic comprises a logic that directs the logic circuit to monitor link speed associated with the communication link.

21. (Original) The logic circuit of claim 17, wherein the third logic comprises a logic that directs the logic circuit to restore the communication resource to an initial state in response to a change in link speed associated with the communication link.

22. (Original) The logic circuit of claim 17, wherein the third logic comprises a logic that directs the logic circuit to restore the communication resource to an initial state in response to a decrease in link speed associated with the communication link for a time period.

23. (Original) The logic circuit of claim 17, wherein the third logic comprises a logic that directs the logic circuit to restore the communication resource to an initial state in response to a decrease in link speed associated with the communication link from 100 megabits per second (Mb/s) to 10 megabits per second (Mb/s).

24. (Original) The logic circuit of claim 17, wherein the logic circuit comprises an application specific integrated circuit.

25. (Original) The logic circuit of claim 17, wherein the communication system operates in accordance to one of a code division multiple access (CDMA) based communication system and a time division multiple access (TDMA) based communication system.

26. (Previously Amended) In a communication system, wherein a controlling device and a controlled device are in communication via a communication link, an apparatus for resetting the controlled device, the apparatus comprising:

a physical layer element within the controlled device, the physically layer being operatively coupled to the communication link;

a reset element operatively coupled to the physical layer element, the reset element being operable to monitor a link parameter associated with the communication link via the physical layer element, and wherein the link parameter is associated with an Ethernet link; and

the reset element being operable to restore the controlled device to an initial state in response to a trigger event so that the controlling device is operable to reestablish communication with the controlled device,

wherein the trigger event is associated with the link parameter.

27. (cancelled)

28. (Original) The apparatus of claim 26, wherein the link parameter associated with the communication link comprises link speed associated with the communication link.

29. (Original) The apparatus of claim 26, wherein the trigger event comprises a change in link speed associated with the communication link.

30. (Original) The apparatus of claim 26, wherein the trigger event comprises a decrease in link speed associated with the communication link for a time period.

31. (Original) The apparatus of claim 26, wherein the trigger event comprises a decrease in link speed associated with the communication link from 100 megabits per second (Mb/s) to 10 megabits per second (Mb/s).

32. (Original) The apparatus of claim 26, wherein the reset element comprises an application specific integrated circuit.

33. (Original) The apparatus of claim 26, wherein the controlled device operates in accordance to one of a code division multiple access (CDMA) based communication system and a time division multiple access (TDMA) based communication system.